

§817.57 Hydrologic balance: Surface activities in or adjacent to perennial or intermittent streams.

(a)(1) *Buffer requirement.* Except as provided in paragraph (b) of this section and consistent with paragraph (a)(2) of this section, you, the permittee or operator, may not conduct surface activities that would disturb the surface of land within 100 feet, measured horizontally, of a perennial or intermittent stream, unless the regulatory authority authorizes you to do so under §784.28(e) of this chapter.

(2) *Clean Water Act requirements.* Surface activities, including those activities in paragraphs (b)(1) through (b)(4) of this section, may be authorized in perennial or intermittent streams only where those activities would not cause or contribute to the violation of applicable State or Federal water quality standards developed pursuant to the Clean Water Act, as determined through certification under section 401 of the Clean Water Act or a permit under section 402 or 404 of the Clean Water Act.

(b) *Exception.* The buffer requirement of paragraph (a) of this section does not apply to those segments of a perennial or intermittent stream for which the regulatory authority, in accordance with §784.28(d) of this chapter or §817.43(b)(1) of this part, approves one or more of the activities listed in paragraphs (b)(1) through (b)(4) of this section.

(1) *Diversion of a perennial or intermittent stream.* You must comply with all other applicable requirements of the regulatory program, including the requirements of §817.43(b) of this part for the permanent or temporary diversion of a perennial or intermittent stream.

(2) *Placement of bridge abutments, culverts, or other structures in or within 100 feet of a perennial or intermittent stream to facilitate crossing of the stream by roads, railroads, conveyors, pipelines, utilities, or similar facilities.* You must comply with all other applicable requirements of the regulatory program, including the requirements of §§817.150, 817.151, and 817.181 of this part, as appropriate.

(3) *Construction of sedimentation pond embankments in a perennial or*

intermittent stream. This provision extends to the pool or storage area created by the embankment. You must comply with all other applicable requirements of the regulatory program, including the requirements of §817.45(a) of this part. Under §817.56 of this part, you must remove and reclaim all sedimentation pond embankments before abandoning the permit area or seeking final bond release unless the regulatory authority approves retention of the pond as a permanent impoundment under §817.49(b) of this part and provisions have been made for sound future maintenance by the permittee or the landowner in accordance with §800.40(c)(2) of this chapter.

(4) *Construction of excess spoil fills and coal mine waste disposal facilities in a perennial or intermittent stream.* You must comply with all other applicable requirements of the regulatory program, including the requirements of paragraphs (a) and (f) of §817.71 of this part for excess spoil fills and the requirements of §§817.81(a), 817.83(a), and 817.84 of this part for coal mine waste disposal facilities.

(c) *Additional clarifications.* All surface activities conducted in or within 100 feet of a perennial or intermittent stream must comply with paragraphs (b)(9)(B) and (b)(11) of section 516 of the Act and the regulations implementing those provisions of the Act, including—

(1) The requirement in §817.41(d)(1) of this part that surface activities be conducted according to the plan approved under §784.14(g) of this chapter and that earth materials, ground-water discharges, and runoff be handled in a manner that prevents, to the extent possible using the best technology currently available, additional contribution of suspended solids to streamflow outside the permit area; and otherwise prevents water pollution.

(2) The requirement in §817.45(a) that appropriate sediment control measures be designed, constructed, and maintained using the best technology currently available to prevent, to the extent possible, additional contributions of sediment to streamflow or to runoff outside the permit area.

(3) The requirement in §817.97(a) of this part that the operator must, to the

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extent possible using the best technology currently available, minimize disturbances and adverse impacts on fish and wildlife and related environmental values and achieve enhancement of those resources where practicable.

(4) The requirement in §817.97(f) of this part that the operator avoid disturbances to; enhance where practicable; restore; or replace wetlands, habitats of unusually high value for fish and wildlife, and riparian vegetation along rivers and streams and bordering ponds and lakes.

[73 FR 75884, Dec. 12, 2008]

§ 817.59 Coal recovery.

Underground mining activities shall be conducted so as to maximize the utilization and conservation of the coal, while utilizing the best technology currently available to maintain environmental integrity, so that re-affecting the land in the future through surface coal mining operations is minimized.

§ 817.61 Use of explosives: General requirements.

(a) Sections 817.61–817.68 apply to surface blasting activities incident to underground coal mining, including, but not limited to, initial rounds of slopes and shafts.

(b) Each operator shall comply with all applicable State and Federal laws and regulations in the use of explosives.

(c) *Blasters.* (1) No later than 12 months after the blaster certification program for a State required by part 850 of this chapter has been approved under the procedures of subchapter C of this chapter, all surface blasting operations incident to underground mining in that State shall be conducted under the direction of a certified blaster. Before that time, all such blasting operations in that State shall be conducted by competent, experienced persons who understand the hazards involved.

(2) Certificates of blaster certification shall be carried by blasters or shall be on file at the permit area during blasting operations.

(3) A blaster and at least one other person shall be present at the firing of a blast.

(4) Any blaster who is responsible for conducting blasting operations at a blasting site shall:

(i) Be familiar with the site-specific performance standards; and

(ii) Give direction and on-the-job training to persons who are not certified and who are assigned to the blasting crew or assist in the use of explosives.

(d) *Blast design.* (1) An anticipated blast design shall be submitted if blasting operations will be conducted within—

(i) 1,000 feet of any building used as a dwelling, public building, school, church or community or institutional building; or

(ii) 500 feet of active or abandoned underground mines.

(2) The blast design may be presented as part of a permit application or at a time, before the blast, approved by the regulatory authority.

(3) The blast design shall contain sketches of the drill patterns, delay periods, and decking and shall indicate the type and amount of explosives to be used, critical dimensions, and the location and general description of structures to be protected, as well as a discussion of design factors to be used, which protect the public and meet the applicable airblast, flyrock, and ground-vibration standards in §817.67.

(4) The blast design shall be prepared and signed by a certified blaster.

(5) The regulatory authority may require changes to the design submitted.

[48 FR 9492, Mar. 4, 1983, and 48 FR 9809, Mar. 8, 1983, as amended at 51 FR 19461, May 29, 1986]

§ 817.62 Use of explosives: Preblasting survey.

(a) At least 30 days before initiation of blasting, the operator shall notify, in writing, all residents or owners of dwellings or other structures located within ½ mile of the permit area how to request a preblasting survey.

(b) A resident or owner of a dwelling or structure within ½ mile of any part of the permit area may request a preblasting survey. This request shall be made, in writing, directly to the operator or to the regulatory authority,